THE HON'BLE SRI JUSTICE D.S.R.VARMA

AND

THE HON'BLE SRI JUSTICE P.SWAROOP REDDY

TAKEN UP WRIT PETITION NO.26496 OF 2005

Dated: 05th June, 2006

Between:

R.Raghu, City Secretary, Communist Party of India (Marxists),

Vijayawada City Committee, Sundaraiah Bhavan,

Palaparthivari Street, Governorpet, Vijayawada,

Pin – 520 002, Andhra Pradesh

… Petitioner

And

1. The Commissioner of Police, Urban Police Commissionerate,

Vijayawada Metropolitan Area, Dornakal Road,

Vijayawada, Pin – 520 002, Andhra Pradesh

and 2 others

… Respondents

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ORAL ORDER: **(per the Hon'ble Sri Justice D.S.R.Varma)**

The present Writ Petition is taken up on the complaint made by one R.Raghu, City Secretary, Communist Party of India (Marxists), Vijayawada City Committee, to the Hon'ble the Chief Justice of Andhra Pradesh High Court to the effect that -- *firstly* the Police have been collecting money from the public in the name of user charges despite the fact that substantial amounts are being

collected by the Government by way of taxes; *secondly* in spite of taxes being collected in different kinds by the Union Government and the State Governments for the purpose of extending common services like defence, development of science, education etc., to local level works like laying roads, maintenance of public health, Law and Order etc., the act of collecting user charges from the public again for providing services is illegal and also amounts to double taxation for the same cause; *thirdly* user charges are being collected by the Home Department when the public are wishing to hold meetings, classes, functions etc., in marriage halls being run by the private and Government managements, which is again in violation of the Fundamental Rights guaranteed in the Constitution of India; and *fourthly* the Police are expected to visualise any breach to the Law and Order situation and shall set right without collecting money in the form of user charges.

2. In response to the notices, in the said writ petition, issued by this Court, the first respondent-Commissioner of Police, Vijayawada City, Krishna District, had filed a counter-affidavit stating *inter alia* that in normal course, the Police did not charge for the services rendered while discharging their duties. In other words, while discharging their duties that are to be extended to the citizens, no special charges will be collected. But, in certain special occasions like organising meetings, marriages etc., in marriage halls, some organisers would make a request to the Police to control the traffic in order to avoid any congestion. In such cases, a lot more Police personnel have to be deployed at the cost of service to other needy people.

3. There is any amount of justifiability in the said contention. Just in order to attend one meeting or function, the Police Department cannot and shall not concentrate a major chunk of the Police force on one event avoiding some. In other words, this kind of service, though, in normal course, should be free, in our considered view, can be construed as a special and additional service basing on the kind of organisation.

4. It is further stated in the counter-affidavit that the fee or charge is not being collected from the public, but only from the organisers to seek deployment of Police force as additional or special service. It is to be further seen that the said additional services are being extended for various other services also. For the kind of services complained of in the petition, the Police have been collecting charges at the rate of Rs.1,000/-.

5. It appears, in some cases, lesser charges are also being collected basing on the kind of organisation or function. This would again mean that the Police are not very keen in collecting the so-called user charges in strict sense. The amount that is being collected also cannot be termed as “exorbitant” or “not commensurate” to the magnitude of the organisation.

6. It is further brought to the notice of this Court that in this connection, the Government of Andhra Pradesh has issued G.O.Ms.No.286, Home (Police-

Budget) Department, dated 19-09-2002.

7. A perusal of the said G.O., goes to show that charges are being collected for various services at different rates; for example, DNA Profiling, Document Examination, Poison Testing, Lie Detector Examination, Liquor Analysis, Drugs Analysis etc. In fact, for all the above tests or services, as the case may be, the Government has to necessarily incur considerable expenditure.

8. Though the State is a Welfare State, it does not mean that the State can and shall extend all kinds of services to the general public at free of cost. We are of the view that the services to the general public and the expenses thereof shall be shared by all the citizens in order to enjoy the benefits. The incidental deficiencies or failures need not necessarily be termed as 'non-adherence' to the statutory or Constitutional obligations.

9. The duties, which are referred to under Article 51-A of the Constitution of India, shall mean that every citizen owes an obligation to the other and to the society as a whole. Sharing of duties and rights shall go parallel to each other.

10. Therefore, mere imposition of some amount for the additional services, in our considered view, is not violative of any Fundamental Rights. The established law is that every Fundamental Right has its own exceptions, provided such an exception is acceptable and not injurious or amounting to infringing the Fundamental Rights.

11. For the foregoing reasons, we do not find any merit in the Writ Petition and the same is liable to be dismissed.

12. In the result, the Writ Petition is dismissed. However, there shall be no order as to costs.

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D.S.R.VARMA, J

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P.SWAROOP REDDY, J

05th June, 2006.

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(Order of the Division Bench

delivered by

the Hon'ble Sri Justice D.S.R.Varma)

05th June, 2006.